

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**ANTONIO COLBERT,**

**Plaintiff,**

**v.**

**Civil Action 2:11-cv-774  
Judge James L. Graham  
Magistrate Judge E.A. Preston Deavers**

**OHIO STATE REPRESENTATIVE  
DALE MALLORY,**

**Defendant.**

**ORDER**

This matter is before the Court for consideration of the September 21, 2011 Report and Recommendation of the United States Magistrate Judge Elizabeth A. Preston Deavers, to whom this case was referred pursuant to 28 U.S.C. § 636(b). (ECF No. 6.) The Magistrate Judge recommended that the Court dismiss this action pursuant to 28 U.S.C. § 1915(e)(2).

The Report and Recommendation specifically advised Plaintiff that the failure to object to the Report and Recommendation within fourteen days of the Report results in a “waiver of the right to de novo review . . . by the District Judge and waiver of the right to appeal the judgment of the District Court.” (Report and Recommendation 3, ECF No. 20.) On October 13, 2011, the Court ordered that the Magistrate Judge’s Report and Recommendation be adopted. (ECF No. 8.) The Court subsequently learned that the Report and Recommendation was sent to the wrong address. Consequently, on October 18, 2011, the Court vacated that order adopting the Report and Recommendation, directed the clerk to send it to the correct address, and advised Plaintiff that “if he seeks review of the Report and Recommendation, he must, within fourteen days of the

date of this Order, file his objections as set forth in the Report and Recommendation.” (Oct. 18, 2011 Order, ECF No. 9.) The time period for filing objections to the Report and Recommendation has expired. Plaintiff has not objected to the Report and Recommendation.

The Court has reviewed the Report and Recommendation. Noting that no objections have been filed and that the time for filing such objections has expired, the Court **ADOPTS** the Report and Recommendation. Accordingly, this action is **DISMISSED** pursuant to § 1915(e)(2) for failure to state a claim upon which relief can be granted.

**IT IS SO ORDERED.**

S/ James L. Graham  
James L. Graham  
UNITED STATES DISTRICT COURT

Date: November 21, 2011

